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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/763,231	01/26/2004	Keiichiro Ishihara	03500.017853.	6539
5514	7590	06/26/2006	EXAMINER	
FITZPATRICK CELLA HARPER & SCINTO			TRAN, HUAN HUU	
30 ROCKEFELLER PLAZA			ART UNIT	
NEW YORK, NY 10112			PAPER NUMBER	
			2861	

DATE MAILED: 06/26/2006

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No.

10/763,231

Applicant(s)

ISHIHARA, KEIICHIRO

Examiner

Huan H. Tran

Art Unit

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --
Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 20 April 2006.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-56 is/are pending in the application.
- 4a) Of the above claim(s) 4-19, 28-43 and 49-56 is/are withdrawn from consideration.
- 5) ☒ Claim(s) 1-3, 20-27 and 44-48 is/are allowed.
- 6) ☐ Claim(s) _____ is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 26 January 2004 is/are: a) ☒ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☒ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☒ All b) ☐ Some * c) ☐ None of:
1. ☒ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. _____.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- 1) ☐ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☒ Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)
Paper No(s)/Mail Date 03/09/04.
- 4) ☐ Interview Summary (PTO-413)
Paper No(s)/Mail Date. _____.
- 5) ☐ Notice of Informal Patent Application (PTO-152)
- 6) ☐ Other: _____.

DETAILED ACTION***Election/Restrictions***

1. Applicant's election with traverse of species (1), claims 1-10, 20-34, 42-56, in the reply filed on 04/20/06 is acknowledged. The traversal is on the ground(s) that Office Action did not established any of the factual predicates needed to impose a requirement to elect between species, since the Office Action did not identify the specifically different embodiments described in the specification. This is not found persuasive because the original claims are part of the disclosure. As such the claims can be used to impose a requirement to elect between species. Argument made raises an issue as to whether the specification provides adequate support for the claim subject matter.

Traversal is also based on burden. It is argued that Examiner has not demonstrated that there would be any undue burden in examining all of the claims in a single application. It is argued that it has always been the prerogative of patent applicants to present claims to a reasonable number of species as the term "reasonable" is used in 37 C.F.R. j 1.141(a). This is not found persuasive because different search queries used in searching for the distinct species indicate different field of search, even though the different embodiments are classified together. MPEP 808.02.

Moreover, while 37 C.F.R. j 1.141(a) allows a "reasonable" number of claims in a single application it is also requires that the application also includes an allowable claim generic to all the claimed species and all the claims to species in excess of one are written in dependent form (§ 1.75) or otherwise include all the limitations of the generic claim. This requirement of the rule is not met in the instant case.

The requirement is still deemed proper and is therefore made FINAL.

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2. Claims 11-19, 35-41 are withdrawn from further consideration pursuant to 37 CFR 1.142(b), as being drawn to a nonelected species, there being no allowable generic or linking claim. Applicant timely traversed the restriction (election) requirement in the reply filed on 04/20/06.

Claims 1-10, 20-34, 42-56 are said to read on the elected species. However, it is submitted that only claims 1-3, 20-27 and 44-48 read on the elected species as characterized in the restriction requirement.

Accordingly, only claims 1-3, 20-27 and 44-48 are examined.

Claims 4-10, 28-34, 35-43, 49-56 are withdrawn.

Priority

3. Receipt is acknowledged of papers submitted under 35 U.S.C. 119(a)-(d), which papers have been placed of record in the file.

Allowable Subject Matter

4. Claims 1-3, 20-27, 44-48 are allowed.


5. The following is a statement of reasons for the indication of allowable subject matter: Prior art of record do not teach or suggest the light radiation deflection order of the plurality of light beams as recited in the claims. With the claimed light radiation deflection order, stable synchronous detection can be obtained without increasing the size of the optical deflector.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Huan H. Tran whose telephone number is (571) 272-2261. The examiner can normally be reached on at work on T-F from 6:30am to 5pm.

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If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Vip Patel can be reached on (571) 272-2458. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.


Huan H. Tran
Primary Examiner
Art Unit 2861

hht
06/22/06